

§ 370.64 What information can I claim as trade secret or confidential?

(a) *Trade secrets.* You may be able to withhold the name of a specific chemical when submitting MSDS reporting or inventory reporting information if that chemical name is claimed as a trade secret. The requirements for withholding trade secret information are set forth in EPCRA section 322 and implemented in 40 CFR part 350. If you are withholding the name of a specific chemical as a trade secret in accordance with trade secrecy requirements, you must report the generic class or category that is structurally descriptive of the chemical along with all other required information. You must also submit the withheld information to EPA and must adequately substantiate your claim. A Form for substantiating trade secret claims is available at the Agency Web site at <http://www.epa.gov/emergencies>.

(b) *Confidential location information.* You may request that the SERC or the LEPC not disclose to the public the location of any specific chemical required to be submitted in Tier II information. If you make such a request, the SERC or LEPC must not disclose the location of the specific chemical. If you use the Tier II Form to report your inventory information, you can choose to report confidential location information for a specific chemical on the Confidential Location Information Sheet, which must be attached to the other Tier II information you are reporting. Although you may request that location information with respect to a specific chemical be withheld from the public, you may not withhold this information from the SERC, the LEPC, or the local fire department. The Confidential Location Information Sheet is available on the Agency Web site at <http://www.epa.gov/emergencies>.

§ 370.65 Must I allow the local fire department to inspect my facility and must I provide specific location information about hazardous chemicals at my facility?

If you are the owner or operator of a facility that has submitted inventory information under this part, you must comply with the following two requirements upon request by the fire depart-

ment with jurisdiction over your facility:

(a) You must allow the fire department to conduct an on-site inspection of your facility; and

(b) You must provide the fire department with information about the specific locations of hazardous chemicals at your facility.

§ 370.66 How are key words in this part defined?

Chief Executive Officer of the Tribe means the person who is recognized by the Bureau of Indian Affairs as the chief elected administrative officer of the Tribe.

Environment includes water, air, and land and the interrelationship that exists among and between water, air, and land and all living things.

EPCRA means the Emergency Planning and Community Right-To-Know Act of 1986.

Extremely hazardous substance (EHS) means a substance listed in appendices A and B of 40 CFR part 355.

Facility means all buildings, equipment, structures, and other stationary items that are located on a single site or on contiguous or adjacent sites and that are owned or operated by the same person (or by any person that controls, is controlled by, or under common control with, such person).

Facility includes manmade structures, as well as all natural structures in which chemicals are purposefully placed or removed through human means such that it functions as a containment structure for human use.

Hazard category means any of the following:

(1) Immediate (acute) health hazard, including highly toxic, toxic, irritant, sensitizer, corrosive, (as defined under 29 CFR 1910.1200) and other hazardous chemicals that cause an adverse effect to a target organ and which effect usually occurs rapidly as a result of short-term exposure and is of short duration;

(2) Delayed (chronic) health hazard, including carcinogens (as defined under 29 CFR 1910.1200) and other hazardous chemicals that cause an adverse effect to a target organ and which effect generally occurs as a result of long-term exposure and is of long duration;

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(3) Fire hazard, including flammable, combustible liquid, pyrophoric, and oxidizer (as defined under 29 CFR 1910.1200);

(4) Sudden release of pressure, including explosive and compressed gas (as defined under 29 CFR 1910.1200); and

(5) Reactive, including unstable reactive, organic peroxide, and water reactive (as defined under 29 CFR 1910.1200).

Hazardous chemical means any hazardous chemical as defined under 29 CFR 1910.1200(c), except that such term does not include:

(1) Any food, food additive, color additive, drug, or cosmetic regulated by the Food and Drug Administration.

(2) Any substance present as a solid in any manufactured item to the extent exposure to the substance does not occur under normal conditions of use.

(3) Any substance to the extent it is used:

(i) For personal, family, or household purposes, or is present in the same form and concentration as a product packaged for distribution and use by the general public. Present in the same form and concentration as a product packaged for distribution and use by the general public means a substance packaged in a similar manner and present in the same concentration as the substance when packaged for use by the general public, whether or not it is intended for distribution to the general public or used for the same purpose as when it is packaged for use by the general public;

(ii) In a research laboratory or a hospital or other medical facility under the direct supervision of a technically qualified individual; or

(iii) In routine agricultural operations or is a fertilizer held for sale by a retailer to the ultimate customer.

Indian Country means Indian country as defined in 18 U.S.C. 1151 as:

(1) All land within the limits of any Indian reservation under the jurisdiction of the United States government, notwithstanding the issuance of any patent, and including rights-of-way running through the reservation;

(2) All dependent Indian communities within the borders of the United States whether within the original or subsequently acquired territory thereof, and

whether within or without the limits of a State; and

(3) All Indian allotments, the Indian titles to which have not been extinguished, including rights-of-way running through the same.

Indian Tribe or Tribe means those Tribes federally recognized by the Secretary of the Interior.

Inventory form means the uniform Tier I and Tier II emergency and hazardous chemical inventory forms published by EPA. These forms can be used for reporting inventory information, as described in 40 CFR 370.40 through 370.45.

LEPC means the Local Emergency Planning Committee appointed by the State Emergency Response Commission.

Material Safety Data Sheet or MSDS means the sheet required to be developed under 29 CFR 1910.1200(g).

Mixture means mixture as defined under the Occupational Safety and Health Administration's Hazard Communication Standard in 29 CFR 1910.1200(c).

OSHA means the U.S. Occupational Safety and Health Administration.

Person means any individual, trust, firm, joint stock company, corporation (including a government corporation), partnership, association, State, municipality, commission, political subdivision of a State, or interstate body.

SERC means the State Emergency Response Commission for the State in which the facility is located except when the facility is located in Indian Country, in which case, SERC means the Emergency Response Commission for the Tribe under whose jurisdiction the facility is located. In the absence of a SERC for a State or an Indian Tribe, the Governor or the chief executive officer of the tribe, respectively, shall be the SERC. Where there is a cooperative agreement between a State and a Tribe, the SERC shall be the entity identified in the agreement.

State means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the United States Virgin Islands, the Northern Mariana Islands, any other territory or possession over which the United States has jurisdiction and Indian Country.

Threshold planning quantity (TPQ) means, for a substance listed in Appendices A and B of 40 CFR part 355, the quantity listed in the column “threshold planning quantity” for that substance.

PART 372—TOXIC CHEMICAL RELEASE REPORTING: COMMUNITY RIGHT-TO-KNOW

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- 372.95 Alternate threshold certification and instructions.

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Subpart A—General Provisions

§ 372.1 Scope and purpose.

This part sets forth requirements for the submission of information relating to the release of toxic chemicals under

section 313 of Title III of the Superfund Amendments and Reauthorization Act of 1986. The information collected under this part is intended to inform the general public and the communities surrounding covered facilities about releases of toxic chemicals, to assist research, to aid in the development of regulations, guidelines, and standards, and for other purposes. This part also sets forth requirements for suppliers to notify persons to whom they distribute mixtures or trade name products containing toxic chemicals that they contain such chemicals.

§ 372.3 Definitions.

Terms defined in sections 313(b)(1)(c) and 329 of Title III and not explicitly defined herein are used with the meaning given in Title III. For the purpose of this part:

Acts means Title III.

Article means a manufactured item: (1) Which is formed to a specific shape or design during manufacture; (2) which has end use functions dependent in whole or in part upon its shape or design during end use; and (3) which does not release a toxic chemical under normal conditions of processing or use of that item at the facility or establishments.

Beneficiation means the preparation of ores to regulate the size (including crushing and grinding) of the product, to remove unwanted constituents, or to improve the quality, purity, or grade of a desired product.

Boiler means an enclosed device using controlled flame combustion and having the following characteristics:

(1)(i) The unit must have physical provisions for recovering and exporting thermal energy in the form of steam, heated fluids, or heated gases; and

(ii) The unit's combustion chamber and primary energy recovery sections(s) must be of integral design. To be of integral design, the combustion chamber and the primary energy recovery section(s) (such as waterwalls and superheaters) must be physically formed into one manufactured or assembled unit. A unit in which the combustion chamber and the primary energy recovery section(s) are joined only by ducts or connections carrying flue gas is not integrally designed; however,